

Claim Rejections - 35 U.S.C. § 103

Claims 1, 3, 11, 14, 49, 50, 53, and 54 - Kanda in view of Wood

Claims 1, 3, 11, 14, 49, 50, 53, and 54 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kanda et al. (U.S. Patent No. 5,348,013, hereinafter “Kanda”) in view of Wood et al. (U.S. Patent No. 5,715,823, hereinafter “Wood”). Applicant respectfully traverses and submits that the Examiner’s rejection of these claims is improper, as evidenced by the following.

With respect to claim 1, Applicant submits that the combination of Kanda and Wood fails to teach or suggest all the claimed features. For instance, neither Kanda nor Wood teaches the features of the host computer, connected to multiple inspection systems by a transmission line, which “includes reception level comparison means for comparing most recent data of the reception level data or an average of continuous reception level data pieces containing the most recent data with a predetermined reception level setup value”, as claimed.

In this regard, Applicant notes that Kanda merely suggests a self-contained ultrasonic diagnostic apparatus, but does not suggest that the ultrasonic diagnostic apparatus is connected to a host computer by a transmission line. Rather, the ultrasonic diagnostic apparatus of Kanda is a self-contained unit, in which the detection and processing of the ultrasonic signals are performed within the apparatus itself, as clearly evidenced by the probe 2, display system 10, signal correction system 20, phase detecting section 30, which are all provided in a single unit. *See, e.g.* Kanda at col. 6, lines 48 - col. 8, line 1.

Moreover, the “computer” identified by the Examiner in the grounds of rejection is merely the CPU 24, or the central processing unit, of the diagnostic apparatus itself. Further, the Examiner acknowledges the deficiencies of Kanda by asserting that “Kanda et al does not teach the computer being a ‘host’ computer and does not teach a plurality of inspection systems being connected to a host computer through a transmission line.” *See* Office Action at page 2.

To compensate for the deficiencies of Kanda, the Examiner relies on Wood, which is alleged to teach “a host computer connected to a plurality of ultrasonic inspection systems (fig. 16), each with its own storage unit (fig. 1, part 24), and the ultrasonic inspection system receiving reception level data (fig. 1, part 12 & col. 2, lines 62+) and transferring this data to the host (col. 13, lines 1-5).” *See* Office Action at page 2. Further, the Examiner concedes that “Wood does not specify the data being compared to a predetermined value”, but proceeds to allege that it would have been obvious “to modify Kanda et al, so that multiple inspection systems are connected together and the data transferred to a main unit or host computer, as taught by Wood et al, in order to improve efficiency and cut costs by operating a plurality of systems from a main host unit.” *See* Office Action at page 3.

However, as Applicant pointed out in the previous Response of March 1, 2006, Wood merely teaches remotely accessing and controlling an ultrasound imaging system, which is connected to a Hyper Text Transport Protocol (HTTP) server 30 and accessed via a “commercially available Web browser” at a remotely located personal computer 100. *See* Wood at col. 3, lines 18-39. As taught by Wood, ultrasonic images that are “obtained from the ultrasound system’s image store 24a” are simply transmitted to the remote PC and displayed in

RESPONSE UNDER 37 C.F.R. § 1.116
Application Serial No. 09/214,865
Attorney Docket No. Q52837

response to a request for the images which is transmitted by the web browser. *See* Wood at col. 9, line 40 -col. 10, line 8.

Further, Wood teaches that the web browser may be configured to remotely operate “mode control switches” of the ultrasonic diagnostic apparatus, which allows the parameters of the ultrasonic diagnostic apparatus, such as “2D and Color modes” to be selected from the web browser by transmitting commands to the diagnostic apparatus via the HTTP server. *See* Wood at col. 11, line 25 - col. 12, line 7. However, the remote display of images that are simply transferred as stored image files to a web browser and transmission of mode control commands to a remote diagnostic unit does not suggest either the determination means or the reception level comparison means of the host computer, as defined by claim 1.

Indeed, the Examiner’s statements in the Response to Arguments only serve to underscore the deficiencies of the combination of Kanda and Wood. For instance, in response to the arguments that Kanda and Wood fails to teach reception level comparison means of the host computer, the Examiner contends that the “previous Office Action included the citation of col. 26, lines 13-18 & 54-57 of Kanda et al., to address this limitation.” *See* Office Action at pages 5-6. However, the portions cited to by the Examiner merely refer to a determination of whether phase distortion detection is effectively performed by a self-contained ultrasonic diagnostic apparatus, which is not connected to any “host computer”, as discussed above.

In addition, the Examiner contends that the citation of col. 26, lines 13-18 and 54-57 addresses the feature of the determination means of the host computer “for analyzing the

specimen inspection data and determining whether or not a specimen contains a defect”, as claimed. *See* Office Action at page 6. For similar reasons, Applicant submits that the processing performed by a *self-contained ultrasonic diagnostic apparatus* does not suggest a host computer having a determination means, as claimed.

Moreover, the Examiner’s remarks in the Response to Arguments are plainly inconsistent with the grounds of rejection, in which the Examiner concedes that Kanda neither teaches “the computer being a ‘host’ computer” nor “a plurality of inspection systems being connected to a host computer through a transmission line.” *See* Office Action at page 2. These inconsistencies notwithstanding, Kanda simply does not suggest that the ultrasonic diagnostic apparatus is connected to any host, nor does Kanda suggest any processing of data being performed anywhere other than on a self-contained diagnostic apparatus.

Further, as discussed previously, Wood simply teaches that stored images can be displayed on a remote web browser, while mode control commands can be transmitted to a remote apparatus via the web browser interface. Wood therefore likewise fails to suggest either determination means or reception level comparison means, as claimed, of a host computer connected to a plurality of ultrasonic inspection systems via a transmission line, which are deficient in Kanda.

Therefore, even assuming, for the sake of argument, that Wood and Kanda were combined, the combination would fail to teach or suggest all the features of claim 1. Applicant also disagrees with the Examiner’s characterization of the arguments presented in the previous

RESPONSE UNDER 37 C.F.R. § 1.116
Application Serial No. 09/214,865
Attorney Docket No. Q52837

Response as “arguments against the references individually”. *See* Office Action at page 7.

While the Examiner may be correct that non-obviousness cannot be shown by attacking references individually where the rejections are based on combinations of references, a proper showing of *prima facie* obviousness requires, among others, that the combination teaches all the claim limitations. Indeed, Applicant’s previous Response plainly stated that the combination of Kanda and Wood fails to suggest all the limitations of claim 1. *See* Response at page 2. The Examiner’s characterization of the previous arguments as an attack on the references individually is both misleading and improper.

A further requirement of *prima facie* obviousness is that there must be some suggestion or motivation to combine the teachings of Kanda and Wood. Applicant that the Examiner’s asserted motivation is impermissibly based on hindsight reconstruction and is therefore improper. For instance, the Examiner contends that it would have been obvious to combine Kanda and Wood “in order to improve efficiency and cut costs by operating a plurality of systems from a main host unit.” *See* Office Action at page 3.

However, the Examiner fails to identify any support for such an assertion in the disclosure of the references themselves. Further, Applicant disagrees that such nebulous alleged benefits as improving efficiency and cutting costs are reasonably suggested by either Kanda or Wood. To the contrary, both Kanda and Wood teach away from the claimed invention. For instance, Kanda teaches a ***self-contained*** ultrasonic diagnostic unit, which is not connected to any “host computer”, and the system of Wood teaches that all the diagnostic processing is performed ***on the remote units themselves***. Thus, the Examiner has impermissibly relied on

RESPONSE UNDER 37 C.F.R. § 1.116
Application Serial No. 09/214,865
Attorney Docket No. Q52837

hindsight gleaned solely from Applicant's disclosure, and not the objective teachings of the applied references, as an improper motivation to combine.

Accordingly, the rejection of claim 1 is improper at least for the reasons discussed above. With respect to independent claim 11, Applicant submits that claim 11 should be allowed at least because Kanda and Wood fails to suggest the determination means of the host computer, for reasons analogous to those discussed above with respect to claim 1, and because the Examiner's motivation to combine is improper. As to dependent claims 3-7, 9-10, 12-15, and 46-54, Applicant submits that these claims are allowable at least by virtue of their dependency.

Claims 4-7, 46-48, 51 and 52 - Kanda in view of Lather

Claims 4-7, 46-48, 51 and 52 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kanda in view of Lather et al. (U.S. Patent No. 4,240,281, hereinafter "Lather"). Applicant traverses and submits that dependent claims 4-7, 46-48, 51 and 52 are allowable at least by virtue of their dependency. Also, Applicant notes that the rejection of these claims is inconsistent with the Examiner's prior assertion that Kanda fails to teach all the features of claim 1. To the extent that the Examiner has failed to establish that Lather teaches the features of claim 1, which are concededly deficient in Kanda, the rejection of these claims is improper.

RESPONSE UNDER 37 C.F.R. § 1.116
Application Serial No. 09/214,865
Attorney Docket No. Q52837

Claims 9, 10, 12 and 13 - Kanda in view of La Pierre

Claims 9, 10, 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kanda in view of La Pierre (U.S. Patent No. 5,951,611). Applicant traverses and submits that dependent claims 9, 10, 12 and 13 are allowable at least by virtue of their dependency. Applicant further notes that the rejection of these claims is improper because the Examiner has failed to establish that the features of claim 1 that are admitted as being deficient in Kanda are taught by La Pierre.

Claim 15 - Kanda in view of Senba

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kanda in view of Senba (JP-40310859). Applicant traverses and submits that claim 15 should be allowed at least by virtue of its dependency. Applicant further notes that the rejection of claim 15 is improper for analogous reasons as discussed with respect to Kanda in view of Lather and Kanda in view of La Pierre.

Conclusion

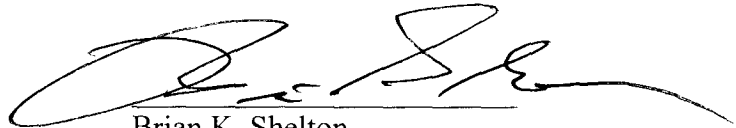
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

RESPONSE UNDER 37 C.F.R. § 1.116
Application Serial No. 09/214,865
Attorney Docket No. Q52837

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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